

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NICK VINCENT FLOR

Plaintiff,
v.

No. Civ. 20-27 JAP/LF

THE UNIVERSITY OF NEW MEXICO;
CAMILLE CAREY, individually and in her
official capacity; ANGELA CATENA,
individually and in her official capacity;
SARA M. CLIFFE, individually and in her
official capacity; and EVA CHAVEZ

Defendants.

Clerk's Minutes

MOTION HEARING
BEFORE MAGISTRATE JUDGE LAURA FASHING

Date of Hearing: Thursday, April 2, 2020

Courtroom: Telephonic

Recorded: Paul Baca, Court Reporter

Clerk: Catherine Malone

Attorneys for Plaintiff(s): Nicholas Hart, Carter Harrison

Attorneys for Defendant(s): Alisa Wigley-Delara, for defendants with the exception of
Defendant Eva Chavez

Proceedings:

1:37 Court is in session. Attorneys make their appearances. Plaintiff is on the line with his
counsel. Emma Rodriguez is present as a representative of UNM.

1:44 Plaintiff argues his Motion for a Temporary Restraining Order and Preliminary
Injunction Against Defendants the University of New Mexico, Camille Carey, Angela
Catena, and Sara M. Cliffe (Doc. 22). Plaintiff directs the Court to attachments to his

motion, Exhibits A, E, and I (Docs 22-1, 22-5, 22-9). Plaintiff argues that the heightened standard for a TRO does not apply in this case because he is not seeking a mandatory injunction. He argues that all four of the elements for an injunction are met.

- 2:52 Defendants argue that a temporary restraining order is not warranted. Defendants assert that the process afforded Plaintiff was appropriate because he had notice and opportunity to respond. Defendants argue that in this case Plaintiff seeks a mandatory injunction and that none of the four injunction factors favor granting Plaintiff's motion.
- 3:26 The Court asks Plaintiff whether he agrees that he received notice and an opportunity to respond. Plaintiff agrees that he had notice, but claims he was not given opportunity to respond. The Court asks Plaintiff what minimum due process he was entitled to under current Supreme Court and Tenth Circuit precedent. The Court invites Plaintiff to respond to Defendants' assertion that there was the power differential between Plaintiff and Defendant Chavez.
- 3:49 Plaintiff makes a rebuttal argument.
- 3:53 Defendants direct the Court to Exhibit E (Doc. 22-5) which details the evidence Plaintiff provided for review by the OEO investigator and an explanation by the investigator as to why that evidence was not considered.
- 3:54 The Court asks whether Plaintiff agrees that the investigator is the individual who made the findings.
- 4:00 The Court is in recess.